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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR  | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-----------------------|---------------------|------------------|
| 10/010,983      | 12/06/2001  | Christopher M. Benson | 9902                | 9424             |

26884 7590 08/03/2005

PAUL W. MARTIN  
LAW DEPARTMENT, WHQ-4  
1700 S. PATTERSON BLVD.  
DAYTON, OH 45479-0001

EXAMINER

KRAMER, JAMES A

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 3627     |              |

DATE MAILED: 08/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/010,983

Applicant(s)

BENSON, CHRISTOPHER M.

Examiner

James A. Kramer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

In view of the Appeal Brief filed on 2/10/05, PROSECUTION IS HEREBY REOPENED. A new grounds of rejection for claims 6-13 is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freedman et al. in view of Fernandes et al.

Freedman et al. teaches a scheduler for a multiple computer system. Within the background of the invention Freedman et al. teaches a master-slave concept in which several

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computers are coordinated through a master control. The master designates which tasks are executed by the individual computers (operating a control processor to subdivide a bulk data set into subdivisions of data; operating the control processor to send the subdivisions of data to a plurality of processors connected to the control processors via network; and operating the processors of the plurality of terminals to process the data) (column 1; lines 38-44).

Freedman et al. further teaches a task selection on each computer is performed by a Scheduler on a priority basis. When a given computer needs to select a task (is substantially idle; claim 3) the computer scans the task status information. Examiner notes that this teaching is consistent with interrupting the data processing, if a computer needs to process a transaction that has higher priority (claim 5).

The system of Freedman et al. does not specifically teach that the network of terminals as point-of-sale terminals. Fernandes et al. teaches retail operations utilize a plurality of point-of-sale terminals coupled to a central computer. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Freedman et al. by further specifying that the network of terminals be point-of-sale terminals, in order for retail operations to leverage their existing hardware when performing large computing tasks.

Examiner notes that the rejection presented above, with respect to claims 1-5 is the same rejection presented in the Office Actions mailed 12/5/03 and 6/2/04. Further, since this rejection (i.e. claims 1-5 under 35 U.S.C. 103(a) as being unpatentable over Freedman et al. in view of Fernandes et al.) was withdrawn from consideration in the Appeal Brief submitted 2/10/05, Applicant has acquiesced this rejections (see MPEP 1207).

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Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freedman et al. in view of Suzuki et al.

The system of Freedman et al. (as discussed in detail above) does not specifically teach that the network of terminals as point-of-sale terminals. Suzuki et al. teaches that electronic cash register systems are well known that comprise a plurality of registers and a central processing unit coupled thereto. The central processing unit cumulatively stores sales data relating to merchandise sold to be read out for financial management (i.e. the central processing unit maintains and utilizes sales history data; column 1; lines 17-22). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Freedman et al. by further specifying that the network of terminals be point-of-sale terminals as taught by Suzuki et al., in order for retail operations to leverage their existing hardware when performing large computing tasks, especially on sales history data.

Examiner notes the limitation "for analyzing portions of bulk customer history data" on lines 4-5 of Claim 6, represents functional language, as it describes what the apparatus does rather than what is. Per MPEP 2114, while features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. Further apparatus claims cover what a device is, not what a device does.

Further, Examiner asserts that structure of the combination of Freedman et al. in view of Suzuki et al. is capable of processing bulk customer data and therefore properly anticipates Applicant's claims 6-9.

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Claims 6-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freedman et al. in view of Balderrama et al.

The system of Freedman et al. (as discussed in detail above) does not specifically teach that the network of terminals as point-of-sale terminals processing bulk customer history data.

Balderrama teaches in-store POS (point-of-sale) LANs (local area networks) that include a plurality of POS terminals (slaves) networked to a manager's station (master) (see for example column 4, lines 35-45 and 61-62). Balderrama further teaches the that manager's stations is oftentimes used to process inventory levels, revenue, sales, purchase trends (customer history data) etc (see for example column 4, lines 50-55).

It would have been obvious to one of ordinary skill in the art at the time of the invention modify the master/slave teachings of Freedman to include the manager's station of Balderrama as the master and the POS terminals of Balderrama as slaves in order to processes inventory levels, revenue, sales, purchase trends. One of ordinary skill in the art would have been motivated to modify the references in order to reduce the execution time of the processing (see Freedman column 1, lines 42-43).

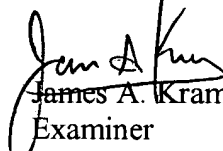
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Kramer whose telephone number is (571) 272 6783. The examiner can normally be reached on Monday - Friday (8AM - 5PM).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272 6771. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 8/1/05  
James A. Kramer  
Examiner  
Art Unit 3627

JAK